

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
SEPTEMBER 3, 2013**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present was Gina Klempel, Scott Hollinger (late) and Cal Dyck. Mark Hash and Charles Lapp had excused absences. Bailey Minnich and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were 4 people in the audience.

**APPROVAL OF
MINUTES**

No quorum present for approval of minutes.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**SWAN
JUNCTION INC
(FCU 13-07)**

A request by Anthony Welzenbach, on behalf of Swan Junction, Inc., for a Conditional Use Permit to have multiple principal uses within one building in the Bigfork Zoning District, zoned B-3 (Community Business). The applicant is proposing an 11 room hotel, casino and art gallery in addition to the previously permitted restaurant on approximately 1 acre. The property is located at 5 Swan Way near Bigfork.

STAFF REPORT

Grieve read to the audience section 5 of the Board of Adjustment's By-Laws concerning a lack of a quorum since two members of the board were present, Klempel and Dyck. The board would hear the staff report, public comment would be recorded and the hearing would be continued until the next regularly scheduled meeting which would be October 1, 2013.

Minnich reviewed Staff Report FCU 13-07 for the Board.

**BOARD
QUESTIONS**

Klempel and Minnich discussed how long the community decay had been on the property, how it would be resolved and if the property was being used as a storage area.

Dyck and Minnich discussed if the proposed use of the structure would go through the Montana State Building Department to meet requirements since the use was being modified, if a plan

had been proposed to meet the 55 required parking spaces and where extra parking could be located.

Grieve spoke about the zoning office's part in the process of a conditional use permit (CUP), the restrictions of the Zoning Regulations, the appropriateness of design, which was the site plan, since there was not a building department for Flathead County and the requirements for a commercial building through the state of Montana.

Minnich stated many times when an application for a CUP was reviewed there was not an existing building in place. The office could not require a building plan.

Dyck spoke of the challenges with an existing building in place.

Staff agreed with the challenges and reviewed what the office was able to review such as traffic generation and parking requirements.

Hollinger joined the meeting at 6:37 pm.

Dyck and staff discussed how to address the challenges in the future, what was a possible wording for a condition to meet the requirements and the difficulties with following up.

Minnich asked Hollinger if he had any questions.

Hollinger said no, he had read the information and had been present when the application had come before the board in a previous application.

Grieve stated for point of order for the record now that there was a quorum, they could proceed normally with the hearing. He clarified Hollinger had access to all written comment which had been provided up to the meeting, Minnich had concluded her presentation so he was present for any public comment either written or verbal which would be submitted and he had adequate time to review the information before making a decision.

Grieve suggested the board may want to take a break after public comment.

**APPLICANT
PRESENTATION**

Tony Welzenbach, applicant, addressed some issues raised at the Bigfork Land Use Advisory Committee meeting. He said the

name Montana Club was trademarked and he bought the property because it was zoned B-3 and fit the plan he had in mind for the project. He gave a history of building inspections conducted, the history of the neighboring properties and the timeline of construction of neighboring buildings. He didn't see his neighbors often due to landscaping. Part of the traffic issues raised was due to traffic which came from the church behind the subject property. He reviewed on the visual aid the traffic flow possible on the property and compared it to the church next door. If the property was at maximum occupancy, there would be approximately 150 people however he only expected 20% to 30% of that figure. He felt the traffic flow and parking was adequate. He handed the board a packet which depicted the rooms and motifs he was in the process of achieving. He reviewed his progress on remedying the community decay issue. He said the lodge and church could form a symbiotic relationship concerning events, etc. He reiterated he bought the property with this project in mind. He summarized his progress on converting the building into a lodge and what types of customers and events he hoped to serve. He felt the building and site would be an asset to Bigfork. He was available for questions.

**BOARD
QUESTIONS**

Klempel and Welzenbach discussed the issue of or need for a grease trap.

**PUBLIC
COMMENT**

Al Johnson was for the application.

James Bonser voiced his concern about the liability of Flathead County if the applicant varied from the building permits and occupancy granted.

The board took a 5 minute break.

**APPLICANT
REBUTTAL**

Welzenbach reiterated the progress on the community decay issues which had been made. He said the inspectors for building and fire prevention had visited the building and everything was up to code. The permitting of a hotel would add another necessary layer to the fire suppression system.

**STAFF
REBUTTAL**

Minnich said in regards to Johnson's question of whether there was a way to make the applicant clean up the property sooner, a CUP was valid for a year and there was no avenue available to make the applicant comply with one condition before a year's inspection.

**BOARD
DISCUSSION**

Klempel felt the applicant stated in good faith he was going to comply with the condition concerning cleanup and felt he would follow through.

Dyck's concern was micromanaging. Since a footprint already existed, the board needed to not ask questions that were not the board's responsibility to ask. He said they should look at the building as a box on the property and that was all their responsibilities were.

Hollinger liked to see new enterprise come to Bigfork and thought the broader the service the greater the draw to the community. The establishment would be a benefit to travelers and people who wished to dine out in the area. It might be the catalyst for the corner to recover.

Gina agreed with the points Hollinger raised.

Dyck felt the issues with the grease trap would be taken care of by the Health Department. The board's responsibility was to make sure the application met the criteria required. There were other agencies which could take care of managing their own requirements. The board did not need to manage requirements for other agencies.

**MAIN MOTION
TO ADOPT
F.O.F.
(FCU 13-07)**

Hollinger made a motion seconded by Dyck to adopt staff report FCU 13-07 as findings-of-fact as originally written by staff.

**BOARD
DISCUSSION**

Minnich, Grieve and the board clarified the motion.

**ROLL CALL
VOTE TO
ADOPT F.O.F.
(FCU 13-07)**

On a roll call vote the motion passed unanimously.

**MAIN MOTION
TO APPROVE
SUBJECT TO 19
CONDITIONS
(FCU 13-07)**

Hollinger made a motion seconded by Klempel to approve FCU 13-07 subject to the original conditions #1-18, with the addition of staff recommended condition #19.

**BOARD
DISCUSSION**

None.

**ROLL CALL
VOTE TO
APPROVE
SUBJECT TO 19
CONDITIONS
(FCU 13-07)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Grieve and Minnich clarified the motions with the board.

**APPROVAL OF
MINUTES**

Hollinger made a motion seconded by Dyck to approve the August 6, 2013 meeting minutes.

The motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Grieve updated the board on the progress of the Planning Board's update on revisions to the Zoning Regulations.

The board and Grieve discussed the board's role concerning updates with regulations and how to bring to the Planning Board's attention general issues they found with the Zoning Regulations.

ADJOURNMENT

The meeting was adjourned at approximately 7:35 pm. on a motion by Hollinger. The next meeting will be held at 6:00 p.m. on October 1, 2013.

Scott Hollinger, Chairman

Donna Valade, Recording Secretary

APPROVED AS **SUBMITTED**/CORRECTED: 10 / 1 / 13